

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

JOSELITO A. SMITH,

Plaintiff,

-VS-

DEPARTMENT OF THE AIR
FORCE,

Defendant.

Case No. CIV-22-1061-F

ORDER

The court is in receipt of Defendant’s Motion to Dismiss, filed March 21, 2023. Doc. no. 17. Defendant moves for dismissal of plaintiff’s complaint, pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure, on two grounds: (1) plaintiff “fails to articulate the basis for the Court’s jurisdiction and a waiver of the United States’ sovereign immunity,” and (2) “because [plaintiff’s] workplace injury falls within the exclusive purview of the Federal Employees Compensation Act (‘FECA’), 5 U.S.C. § 8101 *et seq.*, any claims related to that injury fall outside the Court’s jurisdiction.” *Id.*, p. 1.

Rule 7.1(g) of the court's Local Civil Rules provides:

Each party opposing a motion shall file a response within 21 days after the date the motion was filed. Any motion that is not opposed within 21 days may, in the discretion of the court, be deemed confessed.

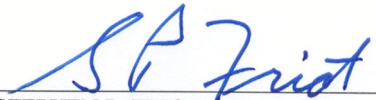
LCvR 7.1(g).

Accordingly, plaintiff Joselito A. Smith is advised that any response in opposition to Defendant's Motion to Dismiss must be filed no later than April 11,

2023.¹ If plaintiff fails to respond to defendant's motion by April 11, 2023, the court will deem the motion confessed and rule on the motion without further notice to plaintiff.

If plaintiff responds to the motion on or before April 11, 2023, defendant, pursuant to Rule 7.1(i), of the court's Local Civil Rules, may reply to any new matter raised in plaintiff's response within 7 days after the date the response was filed. Thereafter, the court will rule on defendant's motion without further notice to the parties.

IT IS SO ORDERED this 22nd March, 2023.


STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

22-1061p002.docx

¹ Any response filed by plaintiff must comply with the requirements set forth in Rule 7.1 and Rule 5.2 of the court's Local Civil Rules.